

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37132
Docket No. CL-38077
04-3-03-3-488**

The Third Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(National Railroad Passenger Corporation (Amtrak))

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-13013)
that:

Each known position rather be new, known to be vacant for more than 30 days, or known to be vacant for more than 90 days will be bulletined. Bulletins will show position (indicating if new), location, primary duties, tour of duty, meal period, days of rest, rate of pay, symbol no., if numbered, and whether or not position is temporary or permanent. Work Rule 2-A-i is the heading of which each of these items listed falls under.

Employee Whitehead bid on the position as it was assigned with normal hours, and work location for each workday. J. Whitehead Acting on orders from her Supervisor-Whitehead did not work her regular assignment that day at the Newark Train Station but went to the Airport, opened a cash drawer, and sold tickets for ten hours. Claimant K. Williams that day would have accepted the assignment, would have worked that day, and would have been paid in the work weeks paycheck ten (10) hours at the punitive rate of pay as a Ticket Seller for performing those duties at the Airport.

Claimant K. Williams should have been given the opportunity to work that day she was not.

The Carrier did allow Claimant's Representative to peruse the Assignment Sheet for the day, and the Call-out sheet and both reveal a violation to have occurred that day.

This claim has been presented in accordance with Rule 7-B-1 of the NEC-Amtrak Agreement and in accordance with Rule 25 of the Off Corridor Clerks Rules Agreement and should be allowed and accepted as presented."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The record in the instant dispute is clear that on the date in question, the Carrier had a vacancy at Newark International Airport. The Carrier did not blank the position. Instead, the Carrier diverted an employee whose regular reporting location was Newark Rail Station to fill the position. In so doing, the Carrier failed to follow the required process for filling vacancies. The claim shall be sustained to the extent that the Carrier shall pay the Claimant for ten hours at the straight time rate.

AWARD

Claim sustained in accordance with the Findings.

Form 1
Page 3

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of August 2004.